IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2160 OF 2005

Sandeep Devendrakumar Agarwal ... Applicant

vs.

The State of Maharashtra ... Respondent.

Mr.Naveen Chomal, for the Applicant.

Mr.K.V.Saste, A.P.P. for the State.

CORAM: A.M.Khanwilkar,J.

DATED: 4th April, 2005.

P.C.:-

1. Heard the learned Counsel for both the parties. Perused the record. The applicant has been arrested in connection with the Crime no.I 76/2004, under Section 498A, 306, 304-B, 323, 504, 506 read with 34 of Indian Penal Code, and now registered under Section 302 of I.P.C, for the same crime.

2. The prosecution case is that the deceased who was the wife of the applicant was found hanging and succumbed to the injuries caused. Initially the prosecution proceeded on the basis of allegations that the applicant has demanded sum of Rs.50,000/-, inviting offence under section 498A of I.P.C. However, during the course of investigation it has come in evidence that the applicant is engaged in a business and his financial position was sound..

3. If it is so, the theory of the prosecution that the applicant demanded sum of Rs.50,000/- on account of which the deceased resorted to commit suicide becomes doubtful. Having realised that position, the prosecution has changed the theory from one of suicide to murder. However, the theory of murder is belied by the contents of the suicide note left behind by the deceased as well as her letters which would indicate that she was happy with the family of the applicant. This material would justify the theory of suicide but for some other cause and not the one suggested by the prosecution namely demand of Rs.50,00/-.

4. The prosecution however, changed the offence to one under section 302 of I.P.C, on the findings noted in the Post Mortem Report about two injuries caused to the deceased, which resulted in strangulation and, the opinion of the medical officer that death was due to strangulation. This theory once again overlooks the fact that the deceased was found in hanging condition. It is possible that the injuries which were noticed in the medical evidence, were

caused by hanging. Viewed in this perspective, in my opinion, the applicant deserves to be enlarged on bail, especially having regard to the fact that the investigation has been completed and the chargesheet has been filed. This application is allowed on the following terms:-

5. The applicant is directed to be released on bail in connection with C.R.no.I 76 of 2004 registered with Ozar Police Station, Nasik, on executing Personal Bond in the sum of Rs.25,000/- with two local sureties in the like amount.

6. The applicant shall not influence the prosecution witnesses and shall not tamper with the prosecution evidence in any manner whatsoever.

7. The applicant shall give full co-operation for the early disposal of the trial as a condition of the bail.

8. If the trial Court is of the opinion that the applicant is responsible for causing delay in early conclusion of the trial, that fact may be recorded which will be reckoned for cancellation of bail.

Application disposed of on the above terms.

4.4.2005 ---